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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,710	09/05/2003	William H. Mook JR.	WHM 2-087	8277

7590 09/07/2005
Gerald L. Smith
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7700 Rivers Edge Drive
Columbus, OH 43235

EXAMINER

DIAMOND, ALAN D

ART UNIT	PAPER NUMBER
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1753

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/656,710	MOOK JR.	
	Examiner	Art Unit	
	Alan Diamond	1753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on June 20, 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,9,11-13,16-28,31-38,40-45 and 48-60 is/are pending in the application.
- 4a) Of the above claim(s) 48-59 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 60 is/are allowed.
- 6) ☒ Claim(s) 1-6,9,11-13,16-28,31-38 and 40-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Comments

1. All objections to the drawings have been overcome by Applicant's amendment of the drawings and specification.
2. The objection to the disclosure for informalities has been overcome by Applicant's amendment of the specification.
3. The Examiner acknowledges that claim 10 has been cancelled. Accordingly, there is now no duplicate of claim 5.
4. The 35 USC 112, second paragraph, rejection of the claims has been overcome by Applicant's amendment of the claims and arguments. The Examiner notes that the term "substantially extending" still appears in claims 19 and 20, and that the term "substantially match" still appears in claim 40. A skilled artisan would be able to determine what is to be encompassed by these terms. Furthermore, these terms are in dependent claims and are not critical for distinguishing over the prior art.
5. Upon reconsideration of the prior art, it is the Examiner's position that the prior art does not teach or suggest the combination of features in the methods of claims 1, 22, and 60.

Election/Restrictions

6. Claims 48-59 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on January 24, 2005.

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7. This application contains claims 48-59 drawn to an invention nonelected with traverse in the reply filed on January 24, 2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1-6, 9, 11-13, 16-28, 31-38, and 40-45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claim 1 at line 27, and in claim 22 at line 21, the range "one or more" for the sloping internally reflecting surfaces is not supported by the disclosure, as originally filed. Note, for example originally filed claim 11 which recites "a sloping internally reflecting surface ...". In Figures 13 and 13A, there are four sloping sides (see page 15, line 34, of the specification). The recitation of "a sloping internally reflecting surface" and the illustration of four sloping sides is not sufficient support for the range "one or more" of the sloping internally reflecting surfaces. The same applies to dependent claims 2-6, 9, 11-13, 16-21, 23-28, 31-38, and 40-45.

Allowable Subject Matter

10. Claim 60 is allowed.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patents 4,301,321, 4,633,030, 5,145,777, 5,404,869, 6,653,551, 6,661,818 and 6,717,045 and U.S. Patent Application Publications 2005/0092360 and 2005/0166952 are here by made of record.

Also made of record is "Fabry-Perot interferometer" from <http://en.wikipedia.org/wiki/Etalon>, printed 9/1/05. This document shows a typical etalon.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Diamond whose telephone number is 571-272-1338. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alan Diamond
September 2, 2005

Alan Diamond
Primary Examiner
Art Unit 1753

A handwritten signature in black ink, appearing to read 'Alan Diamond', with a stylized flourish at the end.